



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.S.No. 91 of 2022

1. Dr.M R Srinivasan

2. M.r.Suseela

... Plaintiffs

Vs.

1. Mr. Manali Veeraraghavan

2. Smt. M.P.Kanniammal

3. Mr.P.Vijayakrishnan

4. Smt. Chitra

5. Smt. M.S. Bagyalakshmi (deceased)

As per order dated 29.11.2022 as in memo recorded

6. M.S.Hari Venkatesan

7. M.S.Aranganathan

...Defendants

Prayer : Complaint filed under Order VII Rule 1 CPC read with Order IV Rules 1 & 2 of OS Rules, to pass a Judgment and Decree

a) a preliminary decree for partition of the suit property into 4 shares and directing the defendants to allot one such share to the plaintiffs by metes



and bounds;

For plaintiffs : Mr. V.Srikanth

For Defendants
1, 5 to 7 : Mr. E.Srikanth

ORDER

The suit had been filed seeking partition and separate possession of undivided 1/4th share in the suit schedule property and to allot the same to the plaintiffs.

2. The suit schedule property is Plot Nos. 5 and 6 measuring 17 grounds and 273 square feet in Old Door No. 26, New No.55, Kasthuri Ranga Road, Alwarpet, Chennai – 600 018 which had been purchased by sale deed dated 01.12.1958 registered as Document No. 1830 of 1958 in the office of the Sub Registrar, Mylapore and described in the schedule to the plaint.

3. The plaintiffs and the defendants trace their title to Manali Srinivasa Mudaliar. The plaintiffs are the son and wife of Manali Ramakrishnan Mudaliar, the first son of Manali Srinivasa Mudaliar. The first defendant is the third son of Manali Srinivasa Mudaliar. The second defendant is the widow of the second son, Manali Parthasarathy Mudaliar



and the third and fourth defendants are her son and daughter. The fifth defendant is the widow of the fourth son Manali Saravana Mudaliar and the sixth and seventh defendants are her two sons. There being no dispute relating to the shares among the parties, I must place on record my deep appreciation to the efforts taken by the learned counsel for the plaintiffs Mr. V. Srikanth, who very judiciously had sought the matter to be referred to mediation. The matter was accordingly referred and I must also place on record the efforts taken by P.S.Kothandaraman, the learned Mediator, who had been appointed by the Mediation and Conciliation Cell of the Madras High Court and who had, along with the learned counsel Mr. V.Srikanth enabled the parties to come to an amicable settlement by agreeing to divide the property into four parts.

4. It must be stated that pending the suit, a memo has been filed by the learned counsel for the plaintiff that the fifth defendant M.S.Bagyalakshmi had died on 05.10.2022 but however the sixth and seventh defendants are only surviving legal heirs and they are already on record. A caveat is therefore placed that when the order copy is issued, the Registry must note the death of the fifth defendant and also indicate that the sixth and seventh defendants, who are already on record are the legal heirs.



5. The learned counsel for the plaintiffs may also make necessary amendment in the plaint indicating the death of the fifth defendant and also indicating that the sixth and seventh defendants are her legal heirs. The memo is reocrded.

6. Coming back to the mediation process, a Joint Memo of Compromise had been forwarded by the Mediation and Conciliation Centre by their letter dated 30.09.2022. The Joint Memo of Comprise had been signed by all the parties to the suit except the fifth defendant, who had unfortunately died. Annexed to the Joint Memo of Compromise is a plan. The portion marked 'D', yellow in colour shall be taken by the plaintiffs. The portion marked 'B', green in colour, shall be taken by the first defendant Mr. Manali Veeraraghavan. The portion marked 'C', blue in colour, shall be taken by the second, third and fourth defendants and the portion marked 'A', pink in colour shall be taken by the sixth and seventh defendants. There is also a provision for common passage to access the respective portions allotted to the parties. That common passage is marked as 'E' in the plan annexed.

7. The plaintiffs and the defendants were also present in the Court and they affirmed that they had entered into the Joint Memo of Compromise and affirmed their consent for such division of the property.



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8. In view of the said compromise, without entering into any further discussion, the suit is decreed in terms of the Joint Memorandum of Compromise dated 21.09.2022 signed by all the parties and also by the learned counsel for the plaintiffs. The Joint Memorandum of Compromise and the plan which is annexed shall form part of the decree. No order as to costs.

9. Registry may ensure that the plan annexed in colour to distinguish the portions allotted, is issued to each one of the parties.

10. It is also brought to the notice that the plaintiffs had filed an application under Order 2 Rule 2, CPC reserving right to file a suit for further reliefs with respect to other properties belonging to the joint family. By an order dated 13.06.2022 such leave has been granted. The same is also stated in this Judgment.

Vsg

29.11.2022

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking Order

C.V.KARTHIKEYAN, J.



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